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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9 MICHAEL BRUCE BYNOE,
10 Petitioner,
11 vs.
12 STATE OF NEVADA,
13 Respondents.

Case No. 3:15-cv-00168-RCJ-WGC
ORDER

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15 Petitioner has submitted an application to proceed in forma pauperis (#1), and he indicates
16 that he wishes to pursue a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The
17 court finds that petitioner is unable to pay the filing fee.

18 Petitioner has not submitted a petition for a writ of habeas corpus. He will need to correct
19 this omission if he wishes to proceed with this action. Petitioner will need to name the correct
20 respondent, who is the warden of the prison where he is held and not the State of Nevada.

21 Petitioner has submitted a motion for appointment of counsel. He also has submitted a
22 motion to inspect and advance cause for argument, in which he asks the court to set a hearing on his
23 motion for appointment of counsel. The court denies these motions because, without a petition, the
24 court has no way to evaluate whether appointment of counsel is warranted.

25 Petitioner has submitted a declaration for entry of default. Default judgment is not available
26 in federal habeas corpus. Gordon v. Duran, 895 F.2d 612 (9th Cir. 1990). Furthermore,
27 respondents have not filed an answer because the court has not directed them to file an answer, and
28 the court has not directed them to file an answer because currently there is no petition to answer.

1 IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (#1) is
2 **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

3 IT IS FURTHER ORDERED that the clerk of the court file the motion for appointment of
4 counsel and the motion to inspect and advance cause for argument.

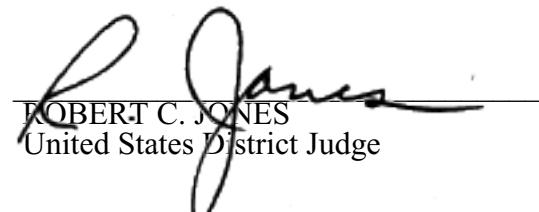
5 IT IS FURTHER ORDERED that the motion for appointment of counsel is **DENIED**.

6 IT IS FURTHER ORDERED that the motion to inspect and advance cause for argument is
7 **DENIED**.

8 IT IS FURTHER ORDERED that the clerk of the court shall send petitioner a petition for a
9 writ of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner shall have
10 thirty (30) days from the date that this order is entered in which to file a petition for a writ of habeas
11 corpus pursuant to 28 U.S.C. § 2254. Neither the foregoing deadline nor any extension thereof
12 signifies or will signify any implied finding of a basis for tolling during the time period established.
13 Petitioner at all times remains responsible for calculating the running of the federal limitation period
14 under 28 U.S.C. § 2244(d)(1) and timely asserting claims. Failure to comply with this order will
15 result in the dismissal of this action.

16 IT IS FURTHER ORDERED that petitioner shall place the case number, 3:15-cv-00168-
17 RCJ-WGC, in the space provided on the petition form, notwithstanding the statement on the form
18 that the clerk will supply the case number.

19 Dated: June 25, 2015

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22 ROBERT C. JONES
23 United States District Judge
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